

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 2013 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NAROTAMBHAI MORARBHAI

Versus

OFFICER ON SPL.DUTY (LAQ)

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Appearance:

MR AJ PATEL for Petitioner  
MR PG DESAI, GP for Respondent No. 1  
MR DU SHAH for Respondent No. 2

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CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 12/04/99

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. P.G. Desai, Ld. G.P. for respondent no. 1 and Mr. D.U. Shah, Ld. Advocate for respondent no. 2.

2. At the reference of the petitioner the District Court in L.A.Q. Case No. 88 of 1991 passed award for

compensation in the sum of Rs.25/- per sq. mtr. and solatium coupled with interest as per judgment and order dated 19/4/1994. The matter was carried before this Court in First Appeal No. 2277 of 1991 by both the parties. This Court enhanced compensation at the rate of Rs.8/- per sq. mtr. as per judgment and order dated 20/1/1995. The matter went before the Hon'ble Supreme Court and the Supreme Court by its order dated 23/8/1996 reduced the compensation to Rs.22/- per sq. mtr.

3. Now before the Executing Court what was sought by the petitioner was amendment of the execution application as per the judgment and order passed by this Court in appellate proceedings. The Executing Court proceeded as if the amendment was granted and issued impugned direction, which indicates that the application for amendment was rejected while directing the opponents to deposit the balance amount by calculating amount of cost. The impugned order dated 5/8/1995 thus rendered by the Ld. Assistant Judge, Surat is subjected to challenge in this revision application.

4. It is not in dispute that the Executing Court has passed the impugned order below the application Exh. 14 wherein there was a prayer for amendment of the execution petition so as to bring the same in line of the order passed by the appellate Court as aforesaid. As stated above, it is not in dispute that the execution petition is yet not amended as per the order passed by the Hon'ble Supreme Court. Under such circumstances and bearing in mind the facts of the case, the impugned order is required to be set aside. Hence, following direction is issued :-

Impugned order is hereby set aside. The petitioner is set at liberty to move an appropriate application for amendment of the execution petition as per the order of the Hon'ble Supreme Court. It will be open to the opponents to file reply to such amendment application. It will also be open to the Executing Court to decide amendment application as well as to decide the questions that might arise in the execution afresh.

Rule made absolute in these terms with no order as to cost.

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PVR.

